IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4699 of 2000

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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UNITED ELECTRIC COMPANY THROUGH PARTNER - Petitioner(s)

Versus

JITENDRABHAI FULABHAI RAJPUT & 8 - Respondent(s)

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Appearance :

NANAVATI & NANAVATI for Petitioner No(s).: 1.

RULE SERVED BY DS for Respondent No(s).: 1.
RULE NOT RECD BACK for Respondent No(s).: 2, 3, 4, 5, 6, 7, 8,9.
DS AFF.NOT FILED (R) for Respondent No(s).: 2, 3, 4, 5, 6, 7, 8,9.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 11/08/2005

ORAL JUDGMENT

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1. This petition is directed against the judgment and award dated 15th January, 2000 passed by the Labour Court, Vadodara in Reference [L.C.V.] No. 373 of 1991,

whereby the Labour Court has awarded closure compensation as well as additional compensation to the respondents.

2. The short facts of the case are that the respondents were working with the petitioner since long years. It is the case of the petitioner that since no work was available, it decided to close its factory w.e.f. 31st December, 1990, and after completion of necessary formalities for closure of the Company, the petitioner issued discharge order to the respondent and other workmen vide letter dated 29th December, 1990. It is further the case of the petitioner that along with the discharge order, cheque for closure compensation, notice pay and other legal dues were given.

2.1. In spite of the said fact, the respondent raised an industrial dispute in respect of their termination on account of the closure of the petitioner Company, which was ultimately referred to the Labour Court for adjudication. The Labour Court after considering the materials produced before it, passed the impugned award. Hence, this petition.

3. Mr. Shukla learned advocate for the petitioner

has submitted that the closure compensation as awarded by the Labour Court is already paid to the respondent and other workmen vide letter dated 2nd December, 1999. He has further contended that though there is no provision under the Industrial Disputes Act, 1947 to award Additional Compensation, in case of closure of an industry, the Labour Court has awarded the additional compensation to the respondents.

4. Though served, none appeared on behalf of the respondents. I have heard the learned counsel for the petitioner and have perused the materials produced on record. This Court while admitting the petition on 10th May, 2000 had stayed the impugned award and the same was confirmed by this Court on 26th September, 2001. As stated by the learned advocate for the petitioner that the closure compensation has already been paid, I am of the opinion that the impugned award is practically complied with. However award qua additional compensation is concerned, I am of the opinion that the same is contrary to the provisions of law. Thus, the award qua additional compensation is required to be quashed and set aside.

5. In the result, the petition is partly allowed.

The impugned award dated 15th January, 2000 passed by the Labour Court, Vadodara in Reference [L.C.V.] No. 373 of 1991, qua additional compensation is quashed and set aside and rest of the award is confirmed. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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